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Attorney for Plaintiff
NATALII TSUBERA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NATALII TSUBERA,

Plaintiff

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant

Case No. 2:24-CV-01789-AC(SS)

STIPULATION AND ~~PROPOSED~~
ORDER FOR AWARD OF ATTORNEY
FEES UNDER THE EQUAL ACCESS TO
JUSTICE ACT (*EAJA*)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff shall be awarded attorney fees and expenses under the Equal Access to Justice Act (*EAJA*), 28 U.S.C. sec. 2412(d), in the amount of five thousand dollars exactly (\$5,000.00) and four hundred and five dollars (\$405.00) in costs under 28 U.S.C. § 1920. This amount represents compensation for all legal services rendered on behalf of plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920 and 2412(d).

After the Court issues an order for *EAJA* fees to Plaintiff, the government will consider the matter of any assignment of *EAJA* fees by Plaintiff. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for *EAJA* fees is entered, the government will determine whether they are subject to any offset.

Fees shall be made payable to plaintiff, but if the Department of the Treasury determines that plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to counsel, Jesse S. Kaplan, pursuant to an assignment executed by plaintiff. Any payments made shall be delivered to counsel.

This stipulation constitutes a compromise settlement of plaintiff's request for *EAJA* attorney fees, and does not constitute an admission of liability on the part of defendant under the *EAJA* or otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that plaintiff and/or counsel may have relating to *EAJA* attorney fees in connection with this action. Because of this stipulation, plaintiff's motion for attorney fees under the *EAJA* should be withdrawn as moot.

This award is without prejudice to the rights of Counsel to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the *EAJA* .

Dated: April 10, 2025

By: /s/ Jesse Kaplan
JESSE KAPLAN
Attorney for Plaintiff

Dated: April 10, 2025


By: /s/ Mary Tsai
MARY TSAI
Special Assistant United States Attorney

ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees, Costs, and Expenses, **IT IS ORDERED** that fees and expenses in the amount of \$5,000.00 as authorized by 28 U.S.C. § 2412, and costs in the amount of \$405.00 as authorized by 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation. Furthermore, Plaintiff's motion for attorney fees is withdrawn as moot.

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1 DATED: April 21, 2025

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3 ALLISON CLAIRE
4 UNITED STATES MAGISTRATE JUDGE
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